**THE HONOURABLE SRI JUSTICE N.V.RAMANA**

**WRIT PETITION No. 17245 of 2006.**

**DATED: 23-11-2006**

Between:

Md.Siddiq.

…petitioner

and

The Chief Engineer (Operation and Maintenance),
Kothagudem and another.

…Respondents.

**THE HON'BLE SRI JUSTICE N.V.RAMANA**

**W.P. No. 17245 of 2006.**

**Oral order:**

This writ petition is filed questioning the action of the respondents in withholding the terminal benefits i.e., Gratuity, P.F. etc. of the petitioner.

The petitioner states that he retired from service of the 1st respondent on 31-5-2005 on attaining the age of superannuation, and he is entitled to an amount of Rs.8,90,734/- towards terminal benefits under the heads of Gratuity, Commutation, and encashment of Earned Leave. The petitioner states that there are orders issued by various courts attaching his retiral benefits, which is contrary to the provisions of Section 60 of Code of Civil Procedure, 1908. As the attachment is contrary to the provision of C.P.C., the petitioner states that he made a representation requesting the 2nd respondent to release the retiral benefits forthwith, and pursuant to said representation, the 2nd respondent addressed a letter to the Senior Legal Advisor of the Corporation seeking clarification on 3-6-2006, but so far neither any clarification has been received nor any action has been taken on the representation of the petitioner. Hence, the petitioner filed this writ petition.

The respondents filed a counter affidavit *inter alia* stating the that the petitioner is entitled to Rs.9,23,002/- towards terminal benefits i.e., G.P.F., Gratuity, Commutation of Pension and Encashment of balance Earned Leave. They petitioner was already paid an amount of Rs.73,995/- towards GPF on 1-6-2005, and out of an amount of Rs.1,47,335/- payable to the

petitioner towards encashment of Earned Leave, an amount of Rs.1,08,609-20 ps. was remitted to the credit of various execution petitions pending on the file of the Principal Senior Civil Judge at Kothagudem, and the balance amount of

Rs. 38,745-80 is withheld as per the orders of the Vacation Civil Judge, Khammam in O.S. No.36 of 2005. It is further stated that the amount of Rs.2,78,273/- towards Gratuity and Rs.4,23,379/- towards Commutation of Pension are not paid to the petitioner in view of attachment orders passed by various courts.

Heard the learned counsel for the petitioner and the learned Standing counsel for the respondent-Corporation.

A perusal of the record would show that there are as many as eight attachment orders passed against the petitioner by various courts. It is the contention of the petitioner that the amounts payable under Provident Fund, Gratuity and other pensionary benefits are exempted from attachment as per the provisions of Section 60 of the Code of Civil Procedure, 1908. It appears that the petitioner has not brought this provision of law to the notice of the civil courts, which passed the orders of attachment.

Since the respondents have deposited and also with-held the retrial amounts payable to the petitioner in terms of the attachment orders passed by various civil Courts, the remedy of the petitioner, if any, is to approach the civil Courts concerned and bring to the notice of the said Courts the provisions of Section 60 of the Civil Procedure Code, 1908, which according to the petitioner, exempts attachment of retrial benefits. The

2nd respondent Accounts Officer shall furnish the details of attachment orders passed against the petitioner by various civil Courts within a period of one week from the date of receipt of a copy of this order, to enable the petitioner approach the civil court and get a clarification on the attachment orders. Upon the petitioner getting the necessary clarification, the 2nd respondent shall release the amounts, which are

not attachable or which stand deleted from attachment.

With the observations as above, the writ petition is disposed of. There shall be no order as to costs.

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**N.V. RAMANA, J**

23rd November, 2006.